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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,964	01/16/2004	Tiandong Jia	4316/044	6519
23440 7590 02/25/2008 GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 10016-0601				
EXAMINER				
SAYALA, CHHAYA D				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
02/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/758,964

Applicant(s)

JIA ET AL.

Examiner

C. SAYALA

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/88)
Paper No(s)/Mail Date 1/16/04&2/9/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 5, 6, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Spanier et al. (US Patent 5011679).

Spanier et al. teaches cleaning hide (see entire col. 10), cutting the rawhide to strips (col. 11, lines 25-26), "soaking in a container", dipping, and immersing in the coating formulation solution, which are all synonymous terms for the claimed 'infusing'. See col. 14, lines 2-3, 66. See also Table 1 which shows color and flavor in the formulation. See lines 4-6 at col. 14 which teach applying the coating to the rawhide and drying it and then cutting it into shorter strips.

2. Claims 1-3, 6-13, 15 are rejected under 35 U.S.C. 102(e) as being anticipated Brown et al. (US Patent 7147888).

At col. 4, lines 41-53 the patentees show cleaning the hides and physically disrupting/penetrating followed by soaking.

Brown et al. teach that physically disrupting rawhide chews augments impregnation of emulsions that contain flavorants substantially throughout the chew.

See col. 4, lines 8-11, abstract and col. 7, lines 18-21. Note that Brown et al. disclosing a rope or a strip at col. 4, line 9, constitutes a geometric shape. Also, the disclosure at col. 19, shows that the term "impregnating" includes marinating and soaking and physically disrupting the rawhide. See also col. 13, lines 43+, which shows scoring, punching or drilling the rawhide. See claim 6 which recites that the physical penetrating/disrupting means as being selected from star-shape and other shapes as well. Figures 1-5 include cuts arranged in a two-dimensional array, as claimed. The patent clearly describes such impregnations improving the chewing activity of the pets since the palatability of the chew is increased by indenting it and soaking in the emulsion containing flavorants.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 4, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spanier et al. or Brown et al. and further in view of Fisher (US Patent 3441001).

The above patents do not show a wavy shape or the dimensions as claimed, although it is widely accepted that the size of a chew is very much dependent by the size of the dog and its bite-size, and Brown et al. discloses the strip to be of a 3" by 3" dimension at col. 23, example 22, and at example 23 teaches that the rawhide is cut into strips of any desired shape or size after impregnation. Fisher et al. teaches the wavy cross-section shape that is claimed herein also for a rawhide chew (see Figs. 1 and 2). Note too, that at col. 2, Fisher shows a strip dimension of 1-6 inches wide and 3-12 inches long, preferably 2-4 inches wide and 4-6 inches long, which dimensions fall within the scope of the dimensions claimed in instant claim 16. Since Brown et al. sanctions the dimensions to be of any desired size, to incorporate such dimensions in the combined teachings of Spanier et al and Brown et al. would have been obvious to one of ordinary skill in the art at the time the invention was made.

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al.

Brown et al. is as discussed above. The reference does not teach a coating formulation that explicitly contains color as well as flavor. But at col. 4, line 9, patentees teach that color as well as flavor additives were customarily added to coating

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formulations for chews and applied to rawhide strips. To combine such additives with the flavor additive of Brown et al. so that a color is imparted to the rawhide strip of Brown et al. would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made. To include colorants in the patent's emulsion with the reasonable expectation that the color would be *impregnated* in the same manner would have been an obvious expedient. See col. 8 for advantages.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/C. SAYALA/

Primary Examiner, Art Unit 1794

